UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-10917 PBS

THE HIPSAVER COMPANY, INC.,
Plaintiff / Counterclaim Defendant,
)

V
)
J.T. POSEY COMPANY,
Defendant / Counterclaim Plaintiff.
)

HIPSAVER'S MOTION TO EXCLUDE EXPERT REPORTS AND TESTIMONY OF GARY REICH

Plaintiff, HipSaver Co. ("HipSaver") respectfully submits this motion to exclude the reports and testimony of Defendant J.T. Posey, Inc.'s ("Posey") expert Gary Reich. The reports and testimony of Gary Reich fail to satisfy the requirements of the Federal Rules of Evidence and existing case law, which require that experts employ a reliable methodology. Mr. Reich failed to conduct a proper investigation and failed to apply principles reliably to the facts of the case. Therefore, his conclusory opinions will fail to assist the jury in finding the facts and should be excluded.

For the reasons stated in the accompanying memorandum, HipSaver respectfully requests that the Court grant its motion to exclude the testimony of Mr. Gary Reich.

CERTIFICATE PURSUANT TO CIVIL LOCAL RULE 7.1 and 37.1

I hereby certify that on October 24, 2006, counsel for the parties conferred by telephone and that counsel for J.T. Posey assented to this motion.

THE HIPSAVER COMPANY, INC. By its Attorneys,

/s/ Courtney M. Quish

Lee Carl Bromberg BBO No.: 058480 Edward J. Dailey BBO No.: 112220 Courtney M. Quish BBO No.: 662288

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Dated: October 26, 2006

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CERTIFICATE OF SERVICE

I certify that this document has been filed through the Electronic Case Filing System of the United States District Court for the District of Massachusetts and will be served electronically by the court to the Registered Participants identified in the Notice of Electronic filing.

/s/ Courtney M. Quish

October 26, 2006

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